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09/868,143	06/15/2001	Joachim Zimmer	1628	6993

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EXAMINER

BALSIS, SHAY L

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,143

Applicant(s)

ZIMMER, JOACHIM

Examiner

Shay L Balsis

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1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 1-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Page 7, line 32, "angle α " should be -angle β -

Page 8, line 25, "lower edge 43" should be -lower edge 55-

Appropriate correction is required.

Claim Objections

2. Claims 3-6 and 8 are objected to because of the following informalities:

Claim 3 is dependent from claim 1 however it appears it should be dependent on claim 2

Claim 4 is dependent from claim 1 however it appears it should be dependent on claim 3

Claim 5 is dependent from claim 1 however it appears it should be dependent on claim 3

Claim 6 is dependent from claim 1 however it appears it should be dependent on claim 5

Claim 8 is dependent from claim 1 however it appears it should be dependent on claim 7.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 and rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the first drive crank" in line 3. There is insufficient antecedent basis for this limitation in the claim.

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Claim 3 recites the limitation "the drive device" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the first and second drive cranks" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the first and second drive cranks" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "the engine crank" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the longer coupling part" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the joints" in line 2. There is insufficient antecedent basis for this limitation in the claim.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. In the present instance, claim 8 (if dependent from claim 7, as examiner assumes)

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recites the broad recitation of a longer and shorter coupling part, and the claim also recites that the longer coupling part is preferable which is the narrower statement of the range/limitation.

Claims 1, 2, 3 and 10 all use the phrase “can be coupled”. This is not a definite limitation and therefore, the claim could also be interpreted as -could not be coupled-. Applicant is asked to positively recite the limitation in order for it to receive patentable weight.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayashi et al.

“*Hayashi*” (USPN 5920948).

Hayashi teaches a wiper system for vehicles comprising a first pivot lever (4a) coupled to a first shaft (4), a second pivot lever (not labeled) coupled to a second shaft (15). The first and second shaft is coupled to a coupling element (5). The coupling element has a first coupling part (5) and a second coupling part (16). The coupling parts are coupled to one another with the aid of joint (4b). The drive device (9) is coupled to the first shaft. There is an engine crank (11) that is displaceable essentially transversely to the first and second shafts. The wiper arm is coupled to the longer coupling part of the coupling element. The joints used are cylindrical joints, with pivot axes extending parallel to one the first and second shafts.

6. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Leroy et al.

“*Leroy*” (USPN 4720885).

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Leroy teaches a wiper system for vehicles comprising a first pivot lever (114) coupled to a first shaft (104), a second pivot lever (110) coupled to a second shaft (101). The first and second shaft is coupled to a coupling element. The coupling element has a first coupling part (102) and a second coupling part (103). The coupling parts are coupled to one another with the aid of joint (112). The drive device (60) is coupled to the first shaft. There is an engine crank (68) that is displaceable essentially transversely to the first and second shafts. The wiper arm (150) is coupled to the first coupling part of the coupling element. The joints used are cylindrical joints, with pivot axes extending parallel to one the first and second shafts.

7. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Edele et al. "*Edele*" (DE 3734201 A1).

Edele teaches a wiper system for vehicles comprising a first pivot lever (24) coupled to a first shaft (22), a second pivot lever (31) coupled to a second shaft (52). The first and second shaft is coupled to a coupling element. The coupling element has a first coupling part (51) and a second coupling part (60). The coupling parts are coupled to one another with the aid of joint (not labeled). There is a drive device is coupled to the first and second shaft. There is an engine crank (21) that is displaceable essentially transversely to the first and second shafts. The wiper arm (27) is coupled to of the second coupling part of the coupling element. The joints used are cylindrical joints, with pivot axes extending parallel to one the first and second shafts.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10-11 are rejected under 35 U.S.C. 102 (b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hayashi (USPN 5920948), Leroy (4720885) and Edele (DE 3734201 A1).

Hayashi, Leroy and Edele all teach the essential elements of the claimed invention however, they fail to teach the method for operating the wiper. Since all three teach the claimed invention it would be obvious to one of ordinary skill in the art that the method for operating the wiper is as claimed. During the first wiping cycle the drive cranks are pivoted out of an outset position of the lever linkage in the same direction until they are in an extended position. The next wiping cycle displaces the wiper lever linkage out of the extended position and one of the drive cranks is pivoted in an opposite direction.


Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 703-305-7275. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

slb


ROBERT J. WARDEN, SR.
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